

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

AMY SIRTAK,

Plaintiff,

v.

CIV 02-1059 MV/KBM

GATEWAY, INC.,

Defendant.

PROPOSED RECOMMENDED DISPOSITION

This matter is before the Court upon a document entitled “Notice to the Court” that was received by counsel for defendant who then faxed it to my office. *See attachment.* I construed the document as a motion by Ms. Sirtak to voluntarily dismiss the complaint. At the telephonic Initial Rule 16 conference held today, the *pro se* plaintiff indicated that she was not seeking to dismiss her action. Although she would like to continue prosecuting her case, she is simply unable to continue as her involvement in the litigation is causing emotional stress.

We discussed alternatives to dismissal such as obtaining an attorney to represent her or a continuance for health reasons. However, Ms. Sirtak stated that even with these alternatives, she would be unable to prosecute the case in the near future. Based upon the Notice and statements made at the conference, I recommend that this action be dismissed without prejudice by the presiding judge.

<p style="text-align:center">THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 10 DAYS OF SERVICE of a copy of this Recommended Disposition they may file written objections with the</p>

Clerk of the District Court pursuant to 28 U.S.C. § 636 (b)(1). **A party must file any objections with the Clerk of the District Court within the ten day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**


UNITED STATES MAGISTRATE JUDGE